CANCELLED

(3)

1001-

IN THE HIGH COURT OF JUDICATURE AT JAB ALPUR

W.P. NO. 5215 /2000

Petitioner :- Saakharam S/o Khorbhra Sa tnami aged 45Yrs resident of Village Borasi P.S. Bhatapara Gramin District Raipur (M.P.)

Versus

Respondent :- State of M.P. through District Magistrate Raipur

PETITION UNDER ARTICLE 226/227 OF THE CONSTIUTION OF INDIA

XI-HC-22

(22)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

Writ Petition No. 5215/2000

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	28/4/2001	

Heard Mr. B.N. Pandey, learned counsel for the petitioner and Mr. Ranvir Singh, learned G.A. for the State.

O R D E R

The order impugned was issued by the District Magistrate on 14/8/2000 by which the writ petitioner was externed from seven districts namely; Raipur, Bilaspur, Durg, Rajnandgaon, Kanker, Mahasamund and Dantewara.

It appears that there are several criminal cases registered against the petitioner. However, that is not the matter of discussion in the present petition inasmuch as a specific grievance has been taken that the writ petitioner was not given opportunity of being heard before the impugned order of externment was issued by the District Magistrate. The said order of externment was issued under Section 5 of M.P. Raj Suraksha Adhiniyam, 1990.

Mr. Pandey, learned counsel for the petitioner submits that Section 8 of the said Adhiniyam, 1990 stipulates that hearing is to be given before any order

[पीछे देखिये

आदेश पत्रक (पुर्वानुबद्ध)

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

under Section 5 is passed. As stated above, the main grievance of the writ petitioner is that the writ petitioner was not given reasonable opportunity of tendering any explanation regarding the charges brought against him.

Notice dated 25/7/2000 was issued to the writ petitioner. However, the same was served upon the petitioner on 2/8/2000 whereas the case was actually fixed on Ist August 2000. That means to say that notice was served after date fixed in this case was already over. On 3/8/2000 after receiving the notice the writ petitioner applied through his counsel ~~for~~ explaning his position in the matter. It is contended that no further information was given to the writ petitioner. Ultimately the impugned order was issued on 14/8/2000 by the District Magistrate. It is further contended that during the month of August, there was a strike called by the Lawyers of Raipur and as such neither the petitioner nor his lawyer knew the date of hearing of the case. Though in the impugned order it is recorded that hearing was held in Camera and four witnesses were examined, ~~but~~ there was nothing to show that examination of witnesses was done in the presence of the writ petitioner nor is there anything to show that the petitioner was given opportunity of hearing.

EPRJ—PS/511—1/2001—50,000.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

23

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	.. 3 ..	

After hearing learned counsel for the parties and on perusal of the relevant documents placed before me including the impugned order of aforesaid, I am of the view that the impugned order dated 14/8/2000 passed by the District Magistrate is not sustainable inasmuch as the same is ~~not violating~~ in violation of the principles of natural justice.

In the result, this petition is allowed. The impugned order dated 14/8/2000 passed by the learned District Magistrate is set aside. The learned District Magistrate shall fix another date notifying the writ petitioner and after the writ petitioner's appearance the matter shall be examined and disposed of in accordance with law. I shall make it clear that the petitioner shall be afforded adequate opportunity of being heard.

Certified copy today.

Sd/-
Chief Justice

rsnr

[पीछे देखिये